



# Mayor & Council of Berlin

10 William Street, Berlin, Maryland 21811

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[www.berlinmd.gov](http://www.berlinmd.gov)



## Mayor

Wm. Gee Williams, III

## Vice President

Elroy Brittingham, Sr.

## Council Members

Dean Burrell, Sr.

Lisa Hall

Paula Lynch

Troy Purnell

**BERLIN, MARYLAND**

## MAYOR AND COUNCIL MEETING

## Town Attorney

David Gaskill

**MONDAY, MAY 14, 2012**

## Town Administrator

Anthony J. Carson, Jr.

**COUNCIL CHAMBERS – BERLIN TOWN HALL  
10 WILLIAM STREET  
BERLIN, MD 21811**

EXECUTIVE SESSION .....NONE SCHEDULED

REGULAR SESSION .....7:00 PM

*Anyone having questions about the meetings mentioned above or needing special accommodations should contact Tony Carson, Town Administrator at (410) 641-4144  
TTY users dial 7-1-1 in the State of Maryland  
TTY users outside Maryland dial 1-800-735-2258*

**BERLIN MAYOR AND COUNCIL  
COUNCIL MEETING  
AGENDA  
Monday, May 14, 2012**

**NO EXECUTIVE SESSION TO BE HELD**

**7:00 PM      REGULAR SESSION – Berlin Town Hall Council Chambers**

1.      Approval of the Minutes for:  
Executive Session of the Mayor and Council on April 23, 2012  
Statement of Closure for Mayor and Council on April 23, 2012  
Regular Session of the Mayor and Council on April 23, 2012  
  
Budget Worksession of the Mayor and Council on April 30, 2012  
Special Executive Session of the Mayor and Council on April 30, 2012  
Statement of Closure for Mayor and Council on April 30, 2012  
  
Special Executive Session of the Mayor and Council on May 1, 2012  
Statement of Closure for Mayor and Council on May 1, 2012
2.      Public Hearing – Ordinance 2012-03  
An ordinance amending Chapter 107, Residential Structure Height Limits
3.      Ordinance 2012-04, Introduction of FY13 Budget  
Public hearing to be held on May 29, 2012
4.      Introduction – Ordinance 2012-06, Water and Sewer Allocation  
Public Hearing to be held on May 29, 2012.
5.      Motion to Approve – Re-assignment of Electric, Water & Sewer Debt in the amount of \$421,865.00 for Town Hall Improvement 2002 USDA bond back to General Fund
6.      Motion to Approve – Transfer of \$533,143.61 asset from Electric fund to General Fund and record as an expense.
7.      Motion to Approve – Policy Renewal for FY13 for Worker's Compensation through IWIF in the amount of \$104,453.00.
8.      Discussion – Out of Town Contractor's Licenses
9.      Discussion – Possible change of date for June 25<sup>th</sup> council meeting
10.     Departmental Reports
  - a. Finance – Lynn Musgrave
  - b. Deputy Town Administrator – Mary Bohlen
  - c. Public Works – Mike Gibbons
  - d. Water Resources – Jane Kreiter

- e. Electric – Tim Lawrence
- f. Police – Arnold Downing
- g. Planning and Zoning - Chuck Ward
- h. Human Resources – Jeff Fleetwood
- i. Economic and Community Development – Michael Day

- 11. Town Administrator's Report
- 12. Comments from the Mayor
- 13. Comments from the Council
- 14. Comments from the Public
- 15. Comments from the Press
- 16. Adjournment

MAYOR AND COUNCIL OF BERLIN, MARYLAND  
Regular Session Council Minutes  
Monday, April 23, 2012

The meeting of the Mayor and Council for Monday, April 23, 2012 was called to order by Mayor Williams at approximately 7:23 p.m. Councilmembers Lynch, Hall, Purnell, Burrell and Brittingham were present, as well as Town Administrator Tony Carson, Town Attorney David Gaskill, Human Resources Director Jeff Fleetwood, Deputy Town Administrator Mary Bohlen, Finance Director Lynn Musgrave, Economic and Community Development Director Michael Day, Electric Utility Director Tim Lawrence, Water Resources Director Jane Kreiter, Police Chief Arnold Downing, Planning & Zoning Director Chuck Ward and Administrative Assistant Sharon Timmons. Public Works Director Mike Gibbons was absent.

Following the recitation of the Lord's Prayer and the Pledge of Allegiance, Mayor Williams asked for a motion to approve the Executive Session Minutes of April 9, 2012. Councilmember Lynch made a motion to approve the minutes and the council voted to approve 5-0. Mayor Williams stated that the Executive Session was closed to discuss a personnel matter that affects one or more specific individuals. Mayor Williams asked for a motion to approve the Regular Session Minutes of April 9, 2012. Councilmember Brittingham made a motion to approve the minutes and council voted to approve 5-0. Mayor Williams asked for a motion to approve the Special Executive Minutes of April 16, 2012. Councilmember Lynch made a motion to approve the minutes and council voted to approve 5-0. Mayor Williams stated that the Special Executive Session was closed to discuss the acquisition of real property for a public purpose and also a personnel matter. Mayor Williams asked for a motion to approve the Budget Worksession minutes of April 16, 2012 and Councilmember Brittingham made a motion to approve the minutes and council voted to approve 5-0.

Mayor Williams requested an addition to the agenda. Mayor Williams requested that Steve Farr, Jane Kreiter and the Grow Berlin Green Team come forward. The Mayor announced that the Town of Berlin had become the first municipality in the state of Maryland to receive the Sustainable Maryland Certified designation and had also received the first Worcester Green Award at the Hotel/Motel Restaurant banquet held last week. Mayor Williams read two letters, one addressed to Jane Kreiter, Director of Water Resources recognizing and thanking her for her leadership in environmental stewardship and the other to Steve Farr, thanking him for his contributions and that of Grow Berlin Green and the other partnerships. Mr. Farr and Kate Patton gave an update on the activities proposed for the 1<sup>st</sup> Trail Mix event on April 28<sup>th</sup> and Ms. Kathy Phillips spoke on the 3<sup>rd</sup> annual Operation Medicine Drop to be held on Saturday, April 28<sup>th</sup>.

Mr. Sonny Adkins came before the council requesting approval of the Special Event known as Memorial Day to be held on Sunday, May 27<sup>th</sup> at 8 a.m. The event will take place at the War Memorial on Main Street. Mr. Adkins explained the activities associated with the event and stated that the event would take place at Stevenson United Methodist Church in the case of rain. Mayor Williams thanked Mr. Adkins for his continued leadership in the community. Councilmember Burrell made a motion to approve the event and council voted unanimously to approve 5-0.

A short collage of advertisements for the Town of Berlin by WOCM-98.1 was shown. Mayor Williams announced and read Proclamation 2012-11, a proclamation proclaiming May 11<sup>th</sup> as WOCM-98.1 Day and requested that radio personalities BK, Tom & Bulldog come forward. The Mayor thanked the gentlemen for their promotion of the town and its events and making Berlin "Maryland's Smallest Cool Town" and then presented them with the proclamation.

Mayor Williams announced the Public Hearing for Ordinance 2012-02, an ordinance amending § 107-34, District Regulations R-1 Residence District. Mayor Williams opened the Public Hearing and asked for any comments from anyone from the State or County. There being no comments, the Mayor asked for comments from the public. Attorney Mark Cropper of 6200 Coastal Highway, applicant on behalf of Waystead Inn LLC came before the council. Mr. Cropper stated that the change in the ordinance would give the Board of Zoning Appeals the authority to relax the restrictions on Bed & Breakfast operations on a case by case basis if the property was greater than 1 acre in size. The Bed & Breakfast establishment would need to appear before the Board of Zoning appeals to make any requests for exceptions and/or

conditional uses which currently are not allowed in the code. Being no other comments from the public, Mayor Williams closed the public hearing and asked for comments or a motion from the council. Councilmember Lynch made a motion to approve the change in Ordinance 2012-02, amending § 107-34 to allow the Board of Zoning Appeals the authority to modify the criteria for conditional use on a case by case basis and council approved unanimously 5-0.

Mayor Williams announced the Public Hearing for Ordinance 2012-03, Residential Structure Height Limits. This ordinance would allow the Board of Zoning Appeals to grant a conditional use for a principal structure to exceed the height restriction by no more than five feet. The Board shall consider the height of structures as measured from the average grade, on adjoining properties as well as those within five hundred (500) feet of the proposed building and shall not permit a conditional use unless the applicant can provide certifiable documentation that adjacent or existing structures in the immediate vicinity currently exceed the height regulations and will not significantly impact the general architectural composition of the neighborhood. Mayor Williams opened the Public Hearing and asked for any comments from anyone from the State or County. Hearing no comments, Mayor Williams asked for comments from the public. Attorney Mark Cropper and builder Bob Purcell came before the council stating their concern on the language and inconsistencies regarding adjoining structures or within the 500 feet radius. Town Attorney David Gaskill concurred with Mr. Cropper's concerns stating that a clarification needed to be made to state that the immediate vicinity needed to be within 500 feet. Councilmember Purnell inquired as to the current code limitation on the height. The response was 30 feet. Mr. Purcell stated that the intention was to incorporate a steeper pitch roof on the structure. Councilmember Purnell responded to change the height limit from 30 feet to 35 feet. Councilmember Hall stated that there are quite a number of structures within the town that are currently 35 feet and the change would be fair to everyone. Councilmember Purnell recommended changing Section D to read 35 feet instead of 30 feet and eliminate Section D (1) in its entirety. Councilmember Lynch inquired if the change requires the Town to hold another public hearing and Town Attorney Gaskill stated yes and that this could be used as the first reading. Councilmember Purnell made a motion to make the change in Section D to read 2 ½ stories or 35 feet in height and to strike #1 and to make this the 1<sup>st</sup> reading of the ordinance. Town Attorney Gaskill read the revised ordinance. The public hearing will be held on May 14, 2012.

Mayor Williams announced the Motion to approve the proposal submitted by Atlantic, Smith, Cropper and Deeley for employee health care HAS Plan 1500 80% provided through United Health Care and Dental coverage through Guardian for FY13. Human Resources Director Jeff Fleetwood stated that the reduction in the rates was 0.1%. Open enrollment will be targeted for the end of May. Mr. Fleetwood stated that the Vision care numbers were not in yet. Councilmember Purnell made a motion to accept the proposal for health care for FY13 from Atlantic, Smith, Cropper and Deeley and council voted unanimously to approve 5-0.

Mayor Williams asked to add another item to the agenda. Mayor Williams explained that there was an application before the Board of License Commissioners from Mr. Ernest Gerardi to apply for an alcoholic beverage license at both the Tex-Mex and Italian restaurants. Mr. Gerardi was asking for a letter of support from the Mayor and Council. Attorney Mark Cropper, representing Mr. Gerardi stating that he had filed two applications for a Class B, 7-day beer, wine and liquor license for the locations of 119 North Main Street and 104 North Main Street. This license is a standard liquor restaurant license. The hearing will be May 16, 2012. Councilmember Lynch inquired if one person could hold more than one liquor license and Mr. Cropper stated if the license was a Class B, then the answer was yes. Councilmember Lynch also inquired if the license would also encompass any outdoor patio or seating area. Mr. Cropper stated he was not certain, but would know when they went before the Board of License Commissioners. Councilmember Brittingham inquired if the hours of operation for the restaurant at 119 North Main Street would affect the church located next door. Mr. Cropper did not know the answer. Councilmember Lynch made a motion to endorse a letter of support from the Mayor and Council and to be sent to the Board of License Commissioners for the restaurants located at 119 North Main Street and 104 North Main Street. Council voted unanimously to approve 5-0.

Departmental reports began with Finance Director Lynn Musgrave reporting that the worksession for the Enterprise Funds would be held on April 30<sup>th</sup> and that she was working with Dwight Davis on the information for the rate case.

Deputy Town Administrator Mary Bohlen reported on the attendance for Clean- Up day and thanked the Berlin Area Ministries for the lunch provided to the volunteers and Troy Mawyer for the music. She reminded everyone of the Trail Mix 2012 event this Saturday, April 28<sup>th</sup>. Ms. Bohlen encouraged everyone to wear the Take Pride in Berlin bracelets which were available at the door.

Water Resources Director Jane Kreiter reported that her department was preparing for the budget worksession. She continued by reporting that the Water Resources department would be holding two training seminars at the plant in conjunction with the Maryland Rural Water Association Conference in May.

Electric Utility Director Tim Lawrence reported that the installation of the low sodium lights on South Main Street had been completed. The next areas for installation would be on Bay Street south of Route 113 and Broad Street. Mr. Lawrence also reported that the new service at the Italian restaurant had been energized and that the generators were being prepped for the peak shaving season.

Police Chief Arnold Downing reported that he had attended MML Executive Training last week and re-emphasized the Operation Medicine Drop would be held at the Police Station on April 28<sup>th</sup> from 10 a.m. to 2 p.m.

Planning & Zoning Director Chuck Ward reported that the Historic District would be meeting next Wednesday to discuss signage for new businesses. He continued his report stating that the Planning Commission would be working on establishing general processes on code revisions regarding zoning. Mayor Williams encouraged the Commission to set a timeline on the goals. Mr. Ward stated that he felt the revisions would be complete in 9 to 12 months. Councilmember Hall inquired about the property located on Washington and Main Street and Mr. Ward replied that letters had been sent concerning the exterior of the property. Discussion continued. Councilmember Brittingham inquired on the status of boarded buildings. Town Administrator Carson stated that two properties were waiting to hear back from the Fire Company regarding controlled burns, but if the properties were not taken care of in a timely manner, then the Town would take the next step.

Human Resources Director Jeff Fleetwood reported that the Town had received \$31,000 in FEMA monies back in January from Hurricane Irene and that he had received correspondence that the Town would be receiving another \$7,900.00. He also reported that he would be attending a State Retirement seminar in Snow Hill on Friday.

Economic and Community Development Director Michael Day reported the Baked Dessert Café and the Maryland Wine Tasting businesses had received their permits for alcohol sales. He also reported that he would be attending a Maryland Economic Development Annual Conference Sunday through Tuesday.

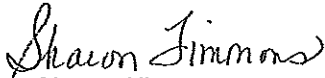
Town Administrator Tony Carson presented and requested approval of 9 purchase orders (201202680, 201202522, 201202718, 201202754, 201202763, 201202329, 201202768, 201202769 and 201202776). Councilmember Brittingham made a motion to approve all 9 purchase orders and council voted to approve 5-0.

Mayor Williams asked Mr. Carson to have Public Works Director Mike Gibbons give an update at the next meeting on how the new swale at Flower Street fared during the rain over the weekend. Water Resources Director Jane Kreiter stated that the swale had handled the rain well and that there had been no flooding. Mayor Williams continued stating that he had received a letter from the Parks Commission asking for volunteers to serve on a sub-committee regarding plans for Dr. William Henry Park and that names needed to be submitted before May 2<sup>nd</sup>.

Mayor Williams asked for comments and/or questions from the council. Councilmember Brittingham inquired about the possibility of a shredder truck coming to town for citizens to dispose of confidential information. Mr. Carson stated that he would contact our new bank to check if there was a possibility of arranging such an event.

Being no questions or comments from the public or press, Councilmember Lynch made a motion to adjourn and the meeting ended at 8:54p.m.

Respectfully submitted,

  
Sharon Timmons  
Administrative Assistant

MAYOR AND COUNCIL OF BERLIN, MARYLAND  
BUDGET WORKSHOP MINUTES  
ENTERPRISE FUNDS  
APRIL 30, 2012

The Budget Worksession for the Enterprise Funds for Monday, April 30, 2012 was called to order by Mayor Williams at approximately 6:04 p.m. In attendance were Council members Lynch, Purnell, Hall, Burrell and Brittingham as well as Town Administrator Tony Carson, Deputy Town Administrator Mary Bohlen, Human Resources Director Jeff Fleetwood, Water Resources Director Jane Kreiter, Water Superintendent Marvin Smith, Wastewater Superintendent Jamey Latchum, Electric Utility Director Tim Lawrence, Finance Director Lynn Musgrave and Administrative Assistant Sharon Timmons.

Mayor Williams stated that the Fire Company would be presenting their budget on May 14<sup>th</sup>.

Town Administrator Tony Carson stated that there would be adjustments in all of the budgets in the areas of health care, insurance, workers comp, liability, bond interest and principle, revenues adjustments in the electric and sewer departments, but most of these adjustments would be favorable to the town. Mr. Carson stated that the council would have a finalized version several days prior to the meeting for their review.

Electric Utility Director Tim Lawrence and Finance Director Lynn Musgrave reviewed the budget for the Electric department. Mr. Lawrence stated that the FY13 budget was almost identical to the FY12 budget and explained some of the changes on some of the line items. Town Administrator Tony Carson explained that the budgeted expenses of \$369,000.00 for the capital projects would be taken from the bond draw. Councilmember Lynch inquired as to the balance of bond monies available after all bond draws had been taken and the response was \$18,000.00. The capital improvements are part of a 5 year plan recommended by Booth & Associates and will be submitted to the Public Service Commission as part of the town's request for a rate decrease. Mr. Lawrence explained the capital projects which include the purchase of capacitor banks to improve the power factor, installation of lightning arrestors, lightning fuses and squirrel guards, installation of hydraulic reclosers on the lines which go out of town, replacement of 150 residential meters, transclosure replacements, replacement of rotten poles throughout town, installation of fault indicators on poles, testing of substation ground grids and a totalizer for the relay room.

Jane Kreiter, Director of Water Resources, Water Superintendent Marvin Smith and Finance Director Lynn Musgrave reviewed the budget for the Water department. Ms. Kreiter stated that the budget overall was flat from last year's budget. Ms. Kreiter explained the expenses of \$175,000.00 for the capital projects were for the Branch Street Wellhouse and the looping of the water lines on Flower Street with Briddletown.




Ms. Kreiter, Ms. Musgrave and Wastewater Superintendent Jamey Latchum reviewed the budget for the Sewer department. Ms. Kreiter stated that the budget was primarily the same as last year with the exception of an increase in salaries for the spray site. That increase would be for the addition of 2 full time persons as of January 1<sup>st</sup>, 2013. She stated that the new personnel would be at the old spray site while the current veteran employees would move to the new spray site. Ms. Kreiter stated that ground breaking had taken place at the new spray site and hoped to have the lagoon completed by mid-fall with the piping for the spray fields complete by January 2013.

Councilmember Burrell requested to have the budgets sent to him in an Excel format rather than PDF.

There being no further discussion, Mayor Williams adjourned the meeting at 7:20 p.m.

Respectfully submitted,

  
Sharon Timmons  
Administrative Assistant

ORDINANCE 2012-03

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN  
OF BERLIN, A MARYLAND MUNICIPAL CORPORATION,  
AMENDING CHAPTER 107, Zoning,

WHEREAS, The Mayor and Council of Berlin have determined that, in order to complement historical architecture within the Town, existing limits regarding the height of single-family residential structures in the R-1 and R-2 should be revised, AND

WHEREAS, the Mayor and Council agree that revising the existing height restrictions will provide harmonious construction and redevelopment,

NOW, THEREFORE, BE IT ORDAINED AND ENACTED, by the Mayor and Council of the Town of Berlin that Chapter 107 be amended as follows:

§ 107-34. R-1 Residence District.

D. Height regulations. No principal structure or part thereof, except as provided in § 107-55 shall exceed 2 ½ stories or ~~30~~ 35 feet in height, and no accessory structure shall exceed 1 ½ stories or 25 feet in height.

THIS ORDINANCE was introduced and read at a meeting of the Town Council held on the \_\_\_\_\_ day of \_\_\_\_\_, 2012, and thereafter a statement of the substance of the Ordinance having been published as required by law was finally passed by the Town Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2012.

Adopted and effective this \_\_\_\_\_ day of \_\_\_\_\_, 2012 by the Mayor and Council of the Town of Berlin, Maryland, by affirmative vote of \_\_\_\_\_ to \_\_\_\_\_ opposed, with \_\_\_\_\_ abstaining.

\_\_\_\_\_  
Elroy Brittingham, Sr., Vice-President

Approved and effective this \_\_\_\_\_ day of \_\_\_\_\_, 2012 by the Mayor of the Town of Berlin.

\_\_\_\_\_  
Wm. Gee Williams, III, Mayor

\_\_\_\_\_  
ATTEST: Anthony J. Carson, Jr., Town Administrator

ORDINANCE 2012-04

A MOTION OF THE MAYOR AND COUNCIL OF THE TOWN OF BERLIN TO  
APPROVE THE FY13 BUDGET AS SUBMITTED AS ATTACHMENT A.

ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2012 BY THE COUNCIL OF THE  
TOWN OF BERLIN, MARYLAND BY AFFIRMATIVE VOTE OF \_\_\_\_\_ TO  
\_\_\_\_\_ OPPOSED.

\_\_\_\_\_  
Elroy Brittingham, Sr., Vice President

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2012

\_\_\_\_\_  
Wm. Gee Williams, III, Mayor

ATTEST: \_\_\_\_\_

Anthony J. Carson, Jr.  
Town Administrator

**ORDINANCE 2012-06**

**AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF BERLIN, A MUNICIPAL CORPORATION OF THE STATE OF MARYLAND AMENDING CHAPTER 102.18.6, " C" OF THE TOWN CODE OF BERLIN, AND ADDING CHAPTER 102.18.13 BAY RESTORATION EXEMPTION TO PROVIDE FOR ADEQUATE ALLOCATION OF WATER AND SEWAGE CAPACITY FOR THE COMMUNITY OF THE TOWN OF BERLIN.**

WHEREAS, the Mayor and Council of the Town of Berlin deem it is advisable to provide for adequate water and sewage capacity for the residents of the Town of Berlin and to allocate water and sewage capacity among current and future developments in a fair and equitable manner in its effort to maintain water and sewerage allocation availability to the community; and

WHEREAS, the Mayor and Council desire to modify provisions regarding, ready to serve charges, special connection charges and other related matters so as to assist the Town in paying for water and sewer facilities.

**NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE MAYOR AND COUNCIL OF BERLIN, MARYLAND,** that Chapter 102, of the Town Code entitled "Water", be amended to add Section 102-18 entitled "Water and Sewer Allocations, " to read as follows:

**Chapter 102**

**WATER**

**SECTION 102-18**

**Water and Sewer Allocation; Special Connection, Connection And Ready to Serve Charges**

**CHAPTER 102-18.1. PURPOSE AND INTENT.**

- A. The Mayor and Council of the Town of Berlin ("Mayor and Council") find that temporary shortages of available capacity in water and sewer facilities may occur as a result of health, environmental, or financial considerations, as well as growth demands. The Mayor and Council have determined that in order to permit growth within the resources of the Town, it is necessary to establish a method by which available water and sewer capacity may be allocated and fees established to assist the Town in paying for water and sewer facilities.

- B. The Mayor and Council further find that an allocation procedure will help implement the comprehensive plan by ensuring that adequate public water and sewer facilities are available in a timely and well-planned manner. In addition, an allocation procedure will assist the Town in addressing the cost of providing needed public water and sewer capacity to ensure that Berlin remains a desirable place to work and live.
- C. It is the intent of the Mayor and Council that the provisions of this section shall accomplish the objectives stated in Sections A and B of this subsection and that a fair and equitable method of allocating available water and sewer capacity and creation of related fees are established.

#### **CHAPTER 102-18.2 DEFINITIONS.**

- A. **ALLOCATED READY TO SERVE CHARGE** - means a charge based upon the number of EDU's allocated to a lot and applied to all lots within the corporate Town limits that may or may not have water and/or sewer service available but for which an allocation has been approved pursuant to this Ordinance.
- B. **ALLOCATION** – means assignment of the number of EDU's required for a project and shall be based on a specific use and scope as indicated in the drawings and documentation submitted to the Town or one (1) EDU per existing lot.
- C. **APPLICATION** - means a request to the Town to reserve a water and sewer allocation made in the form required by the Town. The application shall clearly indicate the number of EDU's requested by the applicant and shall be simultaneously submitted with an application for either a building permit; site plan review; subdivision review, whichever is filed first after the effective date of this Ordinance.
- D. **CAPACITY MANAGEMENT PLAN** – means water and wastewater capacity plans prepared by the Town and submitted to the Maryland Department of the Environment pursuant to its published Guidelines.
- E. **EDU** – means an equivalent dwelling unit which is a measure where one unit is equivalent to the approximate amount of wastewater effluent generated from one home. An EDU is established to be 250 gallons per day (1EDU = 250 gallons of flow per day).
- F. **EXISTING SUBDIVISION** – means a parcel of land documented with a recorded plat having received final approval by the Berlin Planning Commission prior to December 31, 2008.
- G. **GRANDFATHERED READY TO SERVE CHARGE** – means a charge based upon the number of EDU's allocated to a lot and applied to all lots within the corporate Town limits which, as of December 31, 2008, have water and/or sewer service available but are not connected to the water or sewer system.

**H. GRANDFATHERED SPECIAL CONNECTION CHARGE** - a fee imposed upon applicants for New Service for lots subject to the Grandfathered Ready to Serve Charge to pay for:

1. portions of the Town's new and/or upgraded water and sewer system which are under design and construction by the Town as approved by an amendment to the 1994 Comprehensive Plan for Water and Sewage Systems, Worcester County, pursuant to Commissioner Resolution No. 07-36 adopted on December 18, 2007; and
2. portions of the Town's future water and those sewer facilities relating to effluent disposal.

The Town shall use Grandfathered Special Connection Charge revenues only for water and sewer capital and related financing activities.

**I. NEW SERVICE** – means:

- (1) a first time connection of a property to the Town water or sewer systems; or
- (2) a new connection or increased water meter size for a property previously or currently served by the Town if the new connection or increased water meter size is needed because of a change in the use of the property or an increase in demand for service at the property.

**J. SPECIAL CONNECTION CHARGE** – a fee imposed upon applicants for New Service to pay for:

- (1) portions of the Town's existing water and sewer system to be used by new connections;
- (2) portions of the Town's new and/or upgraded water and sewer system which are under design and construction by the Town as approved by an amendment to the 1994 Comprehensive Plan for Water and Sewage Systems, Worcester County, pursuant to County Commissioner Resolution No. 07-36 adopted on December 18, 2007; and
- (3) portions of the Town's future water and those sewer facilities relating to effluent disposal.

The Town shall use Special Connection Charge revenues only for water and sewer capital and related financing activities.

**K. WATER AND SEWER CONNECTION CHARGES** – designed to recoup only the cost of making individual connections from the water and wastewater mains in the street to the property line of an abutting lot and are due and payable at the time a request is made for service. In the case of New Service this fee is due and payable before a Certificate of Occupancy is issued.

### **CHAPTER 102.18.3 APPLICABILITY.**

- A.** Allocations made under this Ordinance are subject to the availability of water and sewer capacity. The Town is not responsible for any contingency that affects the timing or ability to connect to the Town's water and sewer systems which is beyond the control of the Town.
- B.** This Ordinance shall be applicable to all lands within the corporate limits of the Town of Berlin.
- C.** Holders of an allocation who have been paying a Grandfathered Ready to Serve Charge for such allocation as of December 31, 2008 shall be exempt from Chapter 102.18.7. Duration of Allocation of this Policy.

### **CHAPTER 102.18.4 CALCULATION OF EDU REQUIREMENTS.**

- A.** The water and sewer allocation for a single family residential unit shall require one EDU.
- B.** For non-residential units, the number of EDU's required for a project shall be based on the specific use and scope as determined and approved by the Town in accordance with the provisions of this Ordinance.
- C.** Unless otherwise provided for in this Ordinance, the calculation of the number of EDU's required for a project shall be based on the Guidance Document, titled "Wastewater Capacity Management Plans, 2006", published by the State of Maryland Department of the Environment as amended, ("Guidelines") attached as an Appendix to this Ordinance, and as amended from time to time by the Mayor and Council of Berlin, Maryland.
- D.** If a project or use is not adequately addressed in the Guidelines, the Town may consult its engineer or other technical resources, at the expense of the applicant, to estimate the required EDU's.
- E.** The Town may consider historical or representative data from similar projects of like use and scope in calculating the required EDU's for a project.
- F.** The calculation of the required EDU's shall result in whole numbers. If the division of total estimated flow by 250 gallons per day results in a fractional portion, the result shall be rounded to the next highest whole number.
- G.** The Town shall monitor water consumption as an indication of actual sewer flow to a non residential unit or project for a period of twenty-four months following completion of the entire project. If the flow exceeds the established EDU's allocated to the property, the owner of the non-residential unit or project will be assessed additional Special Connection Charges or Grandfathered Special Connection Charges as appropriate to reflect the additional flow in excess of the

previously allocated number of EDU's. Any fractional portion shall be rounded to the next highest whole number.

- H. The allocation for a pre-existing non-residential use shall be based upon the average use over the previous twenty-four (24) months of documented flow when such documented continuous flow history is available. Should such continuous flow history not be available, a determination using historical data for up to the prior ten (10) years shall be made. This documented historical data shall be available for subsequent use of the parcel provided:
- (1) the utility account has remained active with uninterrupted payments for at least minimum usage billing; and
  - (2) there has been no change to the approved uses including any increase to or enhancement of a previously approved use.
- I. In the event neither the prior twenty-four month flow nor historical data is available pursuant to Section 102.18.4 (H) above, the Town shall determine the allocation for a pre-existing non-residential use pursuant to above Sections 102.18.4. (B) through (G).

#### **CHAPTER 102.18.5 AUTHORITY.**

- A. Water and sewer capacity allocations shall be recommended by the Berlin Utilities Commission for approval by the Mayor and Council.

#### **CHAPTER 102.18.6 WATER AND SEWER ALLOCATION PROCESS.**

- A. The Capacity Management Plan and its amendments shall specify the general distribution of available sewer capacity available for allocation by the Mayor and Council. The Plan divides available capacity into use categories to be available over a given period of time. Allocations shall be available within a given category on a "first come-first served" basis, subject to the provisions of this Ordinance.
- B. The developer of any property shall submit to the Town an application for site plan or subdivision approval in accordance with Chapter 94 and Chapter 107 of the Town of Berlin Code; or an application for a building permit in accordance with Chapter 37 of the Town of Berlin Code.
- C. ~~Simultaneously with submission of a site plan, subdivision or building permit application, whichever occurs first after the effective date of this Ordinance, the developer of any property shall also submit an application for a water and sewer allocation.~~ **Simultaneously with submission of a building permit application, the developer or property owner shall also submit an application for a water and sewer allocation.** The allocation application shall be referred to the Berlin Town Administrator and Director of Water Resources for review and recommended action to the Mayor and Council. The application for the required allocation shall include a 10% deposit of the prevailing water and sewer Special Connection



Charge or Grandfathered Special Connection Charge based upon the total number of EDU's requested in the application. The deposit will be deducted from the Special Connection Charge or Grandfathered Special Connection Charge at such time as the proposed development seeks actual connection to the water and sewer system and pays the balance of the Special Connection Charge or the Grandfathered Special Connection Charge.

- D. If the Mayor and Council denies an application for water and sewer allocation, the 10% deposit will be refunded, except for a \$400 administrative fee plus any other additional expenses incurred by the Town in reviewing the application.
- E. No final plat of subdivision may be recorded unless:
  - (1) the Town has approved the application for water and sewer allocation and reserved adequate water and sewer capacity for the proposed development (only lots and portions of non-residential developments with an approved allocation may be recorded) subject to this Ordinance including, but not limited to, its forfeiture provisions; and
  - (2) an allocation agreement has been recorded where a certification of intended uses or Public Works Agreement has been executed.
- F. Once the allocation is approved and the plat of subdivision is recorded, all lots within the newly recorded subdivision shall be subject to the payment of the Allocated Ready to Serve Charge until the total Special Connection Charge or Grandfathered Special Connection Charge balance is paid.
- G. For projects where there is no existing town water and sewer utility services in place, no building permit may be issued unless the Special Connection Charge or Grandfathered Special Connection Charge balance (Connection Charge less the 10% deposit noted in Section C above), which shall be calculated using the prevailing rate at the time the application for allocation was filed less prior deposits, has been paid.
- H. For projects where existing town water and sewer utility services are in place, no Certificate of Occupancy or Zoning Certificate may be issued unless:
  - (1) the Town has inspected and improved all phases of construction; and
  - (2) the applicant has paid all monetary obligations to the Town of Berlin, including, but not limited to, the water and sewer connection charge.
- I. The Town shall maintain a report establishing the amount of water and sewer capacity available for allocation. This report shall account for any allocation made prior to the effective date of this Ordinance. The Town shall also maintain a list of applicants for water and sewer allocations submitted after the effective date of this Ordinance, subject to the provisions of this Ordinance.

#### **CHAPTER 102.18.7 DURATION OF ALLOCATION.**

- A.** Projects receiving final site plan or final subdivision approval after December 31, 2008 shall be subject to the following:
- (1) The owner shall apply for the allocations required for its project by submitting the application as provided in this Ordinance.
  - (2) The approved water and sewer allocation shall be considered reserved for as long as the Allocated Ready to Serve Charge is continuously paid. A three month arrearage shall be considered forfeiture of the allocation and the Town shall be entitled to recapture the sewer and water allocation granted for any lots that fail to pay the Allocated Ready to Serve Charge for three consecutive months unless otherwise approved by the Mayor and Council.
  - (3) Any allocation forfeited under this Ordinance shall revert back to the Town for future allocation.
  - (4) Forfeiture of the reserved allocation shall not warrant a refund of any Special Connection Charge or Grandfathered Special Connection Charge deposit.

#### **CHAPTER 102.18.8 ASSIGNABILITY OR TRANSFERABILITY OF WATER ALLOCATION.**

All Allocations established by the Town for any applicant either before or after the effective date of this Ordinance shall be for the property specified in the application or for which property the readiness to serve charge was paid and shall not be transferable to any other property, without the approval of the Mayor and Council.

#### **CHAPTER 102.18.9 EFFECT OF ZONING ACTION.**

The grant of a special exception, reclassification of property or other zoning action does not entitle a property owner to an allocation of water or sewer capacity for that property.

#### **CHAPTER 102.18.10 SPECIAL CONNECTION CHARGE AND GRANDFATHERED SPECIAL CONNECTION CHARGE ESTABLISHED.**

- A.** The water and sewer Special Connection Charge and the water and sewer Grandfathered Special Connection Charge shall be established by the Mayor and Council and shall be based upon a per EDU basis.
- B.** The water and sewer Special Connection Charge and the water and sewer Grandfathered Special Connection Charge shall be reviewed annually in order to provide adequate revenue for related capital expenditures.

- C. The water and sewer Special Connection Charge and the water and sewer Grandfathered Special Connection Charge established by the Mayor and Council shall continue until modified by the Mayor and Council.
- D. The Town shall deposit all funds collected under the Special Connection Charge and the water and sewer Grandfathered Special Connection Charge into the water and sewer funds to be used only for water and sewer capital and related financing activities.

#### **CHAPTER 102.18.11 MONITORING.**

- A. There will be a review of water and sewer capacity by the Water Resources Director that shall occur at least annually. The Mayor and Council may request certain data more frequently in its role as the approval authority.
- B. As part of the annual review, the Mayor and Council shall receive information on:
  - (1) Calendar year beginning and ending annual average daily flow;
  - (2) Total number of EDU's allocated during the year;
  - (3) Available capacity, as of the most recent year ending December 31<sup>st</sup>;
  - (4) Pending and approved projects which have not connected to the system; and
  - (5) Other information deemed properly plan for and allocate relevant to water and sewer capacity.

#### **CHAPTER 102.18.12 SEVERABILITY.**

Should any provision, section, paragraph or subparagraph of this section, including any code or text adopted hereby, be declared null and void, illegal, unconstitutional, or otherwise determined to be unenforceable by a court having competent jurisdiction, the same shall not affect the validity, legality, or enforceability of any other provision, section, paragraph or subparagraph hereof, including any code or text adopted hereby. Each other provision, section, paragraph or subparagraph is expressly declared to be and is deemed severable.

#### **CHAPTER 102.18.13 BAY RESTORATION EXEMPTION**

**Establishment of a financial hardship exemption plan for residential users from paying the Bay Restoration Fee. The plan must be submitted to MDE for approval.**

#### **CHAPTER 102.18.14 ADDITION TO CODE.**

It is the intention of the Mayor and Council, and it is hereby ordained, that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances and the sections of this Ordinance may be renumbered to accomplish such intention.

**CHAPTER 102.18.15 EFFECTIVE DATE.**

This Ordinance shall take effect at the expiration of twenty (20) calendar days from the date of approval by the Mayor or the approval of the full body of the Council if vetoed by the Mayor.

This Ordinance was introduced and read at a meeting of the Town Council of the Town of Berlin, Maryland held on \_\_\_\_\_, and passed for second reading in accordance with \_\_\_\_\_ of the Charter of Berlin, Maryland, a statement of the substance of the Ordinance has been published in a newspaper or newspapers having general circulation in the Town of Berlin and posted by law. Thereafter, the Ordinance was finally passed by the Town Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2012.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2012

\_\_\_\_\_  
William G. Williams III, Mayor

\_\_\_\_\_  
Elroy Brittingham, Sr., Vice-President

ATTEST: \_\_\_\_\_  
Anthony J. Carson, Jr., MPA  
Town Administrator

**TOWN ADMINISTRATOR'S REPORT**  
**05-14-12**

**Purchase Orders**

PO# 201202820 in the amount of \$1,215.22 to Reliable Meter Service for meter testing and travel expenses.

PO# 201202767 in the amount of \$2,367.04 to Hill's Electric Motor Service for emergency repair of Decatur Street lift station pump.

PO# 201202853 in the amount of \$2,250.00 to Vision Metering for 150 Itron Centron Meters for Electric department.

PO# 201202858 in the amount of \$3,341.20 to DDU Magnetix for Savage Substation Relay/Breaker Upgrade.

PO# 201202866 in the amount of \$2,988.76 to Capital Tristate Electrical for ballasts, sensors and light bars for lighting replacements at Town Hall, Police department and Planning and Zoning. To be reimbursed by MEA EECBG grant.

PO# 201202884 in the amount of \$2,290.00 to Goody Hill Ground Work for changing out meter at Atlantic General Hospital.

PO# 201202923 in the amount of \$8,439.24 to L/B Water Service for new and replacement meters.

PO# 201202760 in the amount of \$1,400.00 to L/B Water Service for 3" hydrant meter.

PO# 201202961 in the amount of \$2,000.00 to Worcester County Department of Tourism for OC Visitors Guide. Matching funds came from Worcester County Tourism and Berlin merchants.

PO# 201202960 in the amount of \$4,000.00 to Worcester County Department of Tourism for Coastal Media Ad. Matching funds came from Worcester County Tourism.

PO# 201202974 in the amount of \$1,879.00 to West Recreation for playground surfacing.

PO# 201202979 in the amount of \$10,941.40 to Intercoastal Trading for soda ash & hypochlorite.

**Updates**



## **Community Shred It Day**

**May 23, 2012, 10 AM-2 PM**

**Bank of Ocean City  
627 William Street  
Berlin, MD 21811**

Bank of Ocean City and the Town of Berlin will host a FREE Community Shred It Day. Take advantage of this free service to safely and responsibly discard your personal documents, such as:

Tax papers

Cancelled checks

Finance records

Prescription and Magazine labels,

Credit Card applications

Old credit cards

Other paperwork containing personal information

There is a limit of three bags or three boxes per person, please.

MINUTES -- PARKS COMMISSION  
April 4, 2012

A meeting of the Berlin Parks Commission was held on Wednesday, April 4, 2012 at 5:30 PM. Board members Patricia Dufendach, Bruce Hyder and Mike Wiley were present as well as Deputy Town Administrator Mary Bohlen. Debbi Colley of Grow Berlin Green and Melanie Windsor of WYFC were also present. Sarah Hooper and Loretta Brown-Briddell were absent.

Ms. Windsor introduced herself to the Board and they to her.

The Minutes of March 7, 2012 were reviewed. Ms. Dufendach moved to approve the Minutes as written and approval was unanimous.

The Board discussed the upcoming Spring Celebration and reviewed the items needed for the day.

The Board discussed the Take Pride in Berlin Clean-Up Day scheduled for Saturday, April 21. Ms. Bohlen indicated that it would be helpful to have one person checking participants in while another directed them to activities. Discussion followed regarding the items needed for the day. It was decided to meet at Stephen Decatur Park on Wednesday, April 18 at 5:30 to review the site and to go to Henry Park from there.

The Board discussed the possibility of forming a sub-committee for the purpose of planning for Dr. William Henry Park. It was decided to invite the Mayor and Council members to the May meeting for this purpose.

Ms. Colley discussed Grow Berlin Green's participation in Clean-Up Day.

Ms. Windsor discussed Worcester Youth & Families after-school program and upcoming potential activities. Brief discussion followed regarding holding a movie night and Ms. Windsor indicated that she would look into this.

Ms. Dufendach moved to adjourn the meeting. The meeting adjourned at approximately 6:30 PM.

Respectfully Submitted,



Mary T. Bohlen  
Deputy Town Administrator  
Liaison to the Parks Commission

MINUTES – PARKS COMMISSION  
April 18, 2012

A meeting of the Berlin Parks Commission was held on Wednesday, April 18, 2012 at 5:30 PM in Stephen Decatur Park. Board members Patricia Dufendach, Bruce Hyder, Mike Wiley and Sarah Hooper were present as well as Deputy Town Administrator Mary Bohlen and Director of Public Works Mike Gibbons.

In preparation for the annual Clean-Up Day scheduled for April 21, 2012, the board reviewed areas of the park that required attention. Discussion was held as to the needs for the day and the planned activities.

The meeting ended at approximately 6:30 PM.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Mary T. Bohlen".

Mary T. Bohlen  
Deputy Town Administrator  
Liaison to the Parks Commission